

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IAN MCCRAY,

Plaintiff,

v.

MARRIOTT HOTEL SERVICES, INC.,
et al.,

Defendants.

Case No. 16-cv-02092 NC

**ORDER RE: DEFENDANTS'
MOTION TO DISMISS**

Under Federal Rule of Civil Procedure 12(d), a court must treat a motion to dismiss that presents matters outside the pleadings as a motion for summary judgment under Rule 56. *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001). If a court converts a motion to dismiss into a motion for summary judgment, the court must give the parties notice and a reasonable opportunity to supplement the record. *Bank Melli Iran v. Pahlavi*, 58 F.3d 1406, 1408 (9th Cir. 1995).

Here, the parties have briefed motions to remand and dismiss, covering similar issues. The Court is inclined to treat the motion to dismiss as a motion for summary judgment because it appears that documents outside the pleadings are necessary to resolve the motion. The parties should be prepared to address treating the motion to dismiss as a motion for summary judgment at the hearing on June 1, 2016.

IT IS SO ORDERED.

Dated: May 25, 2016


NATHANAEL M. COUSINS
United States Magistrate Judge

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